

JUL 17 2007

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
MUR 5907
NC REALTORS PAC

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5907 as a low-rated matter. In this case, the complainant, John Goddin, a member of the Greater Chapel Hill Association of Realtors ("GCHAR"), claims that his dues statement to GCHAR compels him to contribute to the NC Realtors PAC. Specifically, the billing statement sent to the complainant lists an automatic contribution to the NC Realtors PAC as part of the regular dues. The complainant maintains that although his membership in GCHAR is voluntary, he must remain a member in order to operate his real estate business. The complainant concedes that the GCHAR places a note in the dues statement indicating that the contribution to the NC Realtors PAC is voluntary, but that the amount of the contribution is already added to the statement's total giving the impression that it is required as part of the membership dues.

The respondent, NC Realtors PAC, claims that the listing of the contribution on the GCHAR dues statement is consistent with the Commission's regulations. Specifically, NC

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1 Realtors contends that the inclusion of a request for a contribution on the dues statement is
2 authorized under 11 C.F.R. §102.6(c)(2). Furthermore, NC Realtors PAC notes that the
3 disclosure found on the GCHAR dues statement complies with the requirements set forth in
4 11 C.F.R. §114.5(a)(2)-(5).¹ Additionally, NC Realtors PAC points out that the Commission
5 in Advisory Opinions 1982-55 and 1985-12 approved the inclusion of the requested
6 voluntary contribution in a "total due" amount on a dues statement as long as the appropriate
7 disclaimer was included. Finally, NC Realtors PAC indicates that it orally advised the
8 complainant that he did not have to make the suggested contribution in order to maintain his
9 membership status.

10 In light of the de minimis nature of the allegations, and in furtherance of the
11 Commission's priorities and resources, relative to other matters pending on the Enforcement
12 docket, the Office of General Counsel believes that the Commission should exercise its
13 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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¹ The line item representing the NC Realtors PAC contribution on the dues statement reads, "Contributions to RPAC are totally voluntary and an OPTIONAL payment on this invoice." (Emphasis in original) Below the total found on the dues statement is a disclaimer provided by NC Realtors PAC, which states:

NC RPAC DISCLAIMER

All contributions to the NC Realtors PAC must be from personal funds. No corporate contributions are accepted. Contributions are not deductible for income tax purposes. Contributions to RPAC are voluntary and are used for political purposes. The amount suggested is merely a guideline and you may contribute more or less than the suggested amount. You may refuse to contribute without reprisal and the National Association of REALTORS or any of its state associations or local boards will not favor or disfavor any member because of the amount contributed. 70% of each contribution is used by your state PAC to support state and local political candidates. Until your state PAC reaches its RPAC goal 30% is sent to National RPAC to support federal candidates and is charged against your limits under 2 U.S.C. § 441a, after the state PAC reaches its RPAC goal it may elect to retain your entire contribution for use in supporting state and local candidates.


RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5907, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

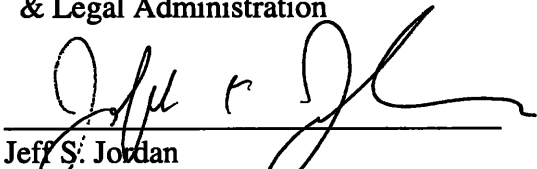
Thomasenia P. Duncan
General Counsel

2/17/07
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5907

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4 **MUR 5907**

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6 **Complainant:** John D. Goddin.

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8 **Respondents:** NC Realtors PAC and
9 William Depriest, as Treasurer
10 Greater Chapel Hill Board of Realtors, Inc
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12

13 **Allegations:** The complainant, John Goddin, a member of the Greater Chapel Hill
14 Association of Realtors ("GCHAR"), claims that his dues statement to GCHAR compels
15 him to contribute to the NC Realtors PAC. Specifically, the billing statement sent to the
16 complainant lists an automatic contribution to the NC Realtors PAC as part of the regular
17 dues. The complainant maintains that although his membership in GCHAR is voluntary,
18 he must remain a member in order to operate his real estate business. The complainant
19 concedes that the GCHAR places a note in the dues statement indicating that the
20 contribution to the NC Realtors PAC is voluntary, but that the amount of the contribution
21 is already added to the statement's total giving the impression that it is required as part of
22 the membership dues.
23

24 **Response:** The respondent, NC Realtors PAC, claims that the listing of the contribution
25 on the GCHAR dues statement is consistent with the Commission's regulations.
26 Specifically, the NC Realtors contend that the inclusion of a request for a contribution on
27 the dues statement is authorized under 11 C.F.R. §102.6(c)(2). Furthermore, NC Realtors
28 PAC notes that the disclosure found on the GCHAR dues statement complies with the
29 requirements set forth in 11 C.F.R. §114.5(a)(2)-(5). The line item representing the NC
30 Realtors PAC contribution on the dues statement reads, "Contributions to RPAC are
31 totally voluntary and an OPTIONAL payment on this invoice." (Emphasis in original)
32 Below the total found on the dues statement is a disclaimer provided by NC Realtors
33 PAC, which states:
34

35 **NC RPAC DISCLAIMER**
36

37 All contributions to the NC Realtors PAC must be from personal funds.
38 No corporate contributions are accepted. Contributions are not
39 deductible for income tax purposes. Contributions to RPAC are
40 voluntary and are used for political purposes. The amount suggested is
41 merely a guideline and you may contribute more or less than the
42 suggested amount. You may refuse to contribute without reprisal and the
43 National Association of REALTORS or any of its state associations or
44 local boards will not favor or disfavor any member because of the amount
45 contributed. 70% of each contribution is used by your state PAC to
46 support state and local political candidates. Until your state PAC reaches

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1 its RPAC goal 30% is sent to National RPAC to support federal
2 candidates and is charged against your limits under 2 U.S.C.

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4 Additionally, NC Realtors PAC points out that the Commission in Advisory Opinions
5 1982-55 and 1985-12 approved the inclusion of the requested voluntary contribution in
6 a "total due" amount on a dues statement as long as the appropriate disclaimer was
7 included. Finally, NC Realtors PAC indicates that it orally advised the complainant
8 that he did not have to make the suggested contribution in order to maintain his
9 membership status

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11 **Date complaint filed:** March 7, 2007

12 **Amendment filed:** March 29, 2007

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14 **Response received:** April 3, 2007 and April 30, 2007

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